IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL SECOND APPEAL No. 6 of 2005

BALKAR SINGH
V/S
U.I.T., SRIGANGANAGAR

Mr. G.J.GUPTA, for the appellant / petitioner

Date of Order : 10.1.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant, and perused the impugned judgments.

The suit of the plaintiff-appellant, filed for perpetual injunction, has been dismissed by both the learned Courts below. The injunction prayed for was seeking to restrain the respondents from dispossessing the appellant from the cabin, wherein he is carrying on the job of tyre tube patching for last 15 years. It has been found by the learned Courts below that the appellant is not proved to be in old possession, rather the electricity bills produced by him are of the years 1990, 1991, 1996, and 1997. Thus, only two bills of 1990 and 1991 are of the date anterior to the suit, and no other material has been produced, like Ration card, etc. Then, it has also been found that he was penalised for the trespass, and a penalty of Rs.345/- has been received from him on 17.4.93 against which, he did not raise any protest.

It has also been found that it is nowhere statement of the appellant that he ever applied for any regularisation, or agreed for any regularisation, or wants any other place. It is, with these findings, that the suit has been dismissed.

Thus, from the findings of fact recorded by learned Courts below, it is clear that as on the date of filing of the suit, the appellant was only a recent trespasser. In such circumstances, when the appellant was served with a notice to remove the encroachment, obviously by way of attempting to comply with the principles of natural justice, the appellant filed the present suit for injunction. But then, the appellant has not been able to make out any plausible, and sustainable claim under law for being entitled to such injunction. It is significant to note that learned counsel for the appellant has not been able to satisfy, as to how, all, or any of the findings are vitiated on any of the grounds available under Section 100 CPC.

Thus, the appeal cannot be said to be involving any substantial question of law. The same is, therefore, dismissed summarily.

( N P GUPTA ),J.

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